

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL GARZA,

Plaintiff,

v.

CITY OF VISALIA, et al.,

Defendants.

Case No. 1:21-cv-01203-SAB

ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE AND ADJUST THE
DOCKET TO REFLECT VOLUNTARY
DISMISSAL PURSUANT TO RULE 41(a)
OF THE FEDERAL RULES OF CIVIL
PROCEDURE

(ECF No. 31)

On February 10, 2023, the parties filed a stipulation of dismissal. (ECF No. 31.) In the stipulation, Plaintiff dismisses his first and second claims for relief (claims pursuant to 42 USC 1983) with prejudice; and Plaintiff dismisses his remaining claims (state claims for assault and battery, negligence, and violation of the Bane Civil Rights Act) without prejudice.

Rule 41(a) of the Federal Rules of Civil Procedure allows a party to dismiss some or all of the defendants or claims in an action through a Rule 41(a) notice. Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997); see also Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995) (“The plaintiff may dismiss either some or all of the defendants—or some or all of his claims—through a Rule 41(a)(1) notice.”)); Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 687 (9th Cir. 2005) (The Ninth Circuit has “only extended the rule to allow the dismissal of all claims against one defendant, so that a defendant may be dismissed from the entire action.”). “Filing a notice of voluntary dismissal with the court automatically terminates the action as to the

1 defendants who are the subjects of the notice.” Concha, 62 F.3d at 1506.

2 In light of the notice of dismissal, this action has been terminated, Fed. R. Civ. P.
3 41(a)(1)(A)(ii); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997), with Plaintiff’s
4 federal claims dismissed with prejudice and his state claims dismissed without prejudice; the
5 dismissals are as to all Defendants, with each party to bear their own attorneys’ fees and costs.

6 Accordingly, the Clerk of the Court is HEREBY DIRECTED to close the case and adjust
7 the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

8
9 IT IS SO ORDERED.

10 Dated: February 13, 2023


UNITED STATES MAGISTRATE JUDGE